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Montana

**PROFESSIONAL ENGINEER
AND LAND SURVEYOR
REGISTRATION LAW**

and

BOARD BY-LAWS AND RULES

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THE REGISTRATION LAW

Chapter 150

1957 LAWS OF MONTANA

(including Legislative Amendments)

PROFESSIONAL ENGINEERING AND LAND SURVEYING ACT
AN ACT TO REGULATE THE PRACTICES OF ENGINEERING AND LAND SURVEYING; TO SAFEGUARD LIFE, HEALTH, AND PROPERTY, AND TO PROMOTE THE PUBLIC WELFARE; PROVIDING FOR THE REGISTRATION OF QUALIFIED PERSONS AS PROFESSIONAL ENGINEERS AND LAND SURVEYORS, AND PROVIDING FOR THE CERTIFICATION OF ENGINEERS-IN-TRAINING; DEFINING THE TERMS "ENGINEER", "PROFESSIONAL ENGINEER", "ENGINEER-IN-TRAINING", "PRACTICE OF ENGINEERING", "LAND SURVEYOR", AND "PRACTICE OF LAND SURVEYING" CREATING A STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND PROVIDING FOR THE APPOINTMENT OF ITS MEMBERS; FIXING THE TERM OF THE BOARD; DEFINING ITS POWERS AND DUTIES; SETTING FORTH THE MINIMUM QUALIFICATIONS AND OTHER REQUIREMENTS FOR REGISTRATION; MAKING THE ADMINISTRATION OF THIS ACT SELF SUPPORTING BY ESTABLISHING FEES WITH EXPIRATION AND RENEWAL REQUIREMENTS; EXEMPTING CERTAIN GROUPS; AND PROVIDING FOR THE ENFORCEMENT OF THIS ACT AND PENALTIES FOR ITS VIOLATION, AND REPEALING SECTIONS 66-2301 THROUGH 66-2323 OF THE REVISED CODES OF MONTANA, 1947, AND ALL ACTS AND PARTS OF ACTS IN CONFLICT HEREWITH.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

66-2324. Registration required. That in order to safeguard life, health and property, and to promote the public welfare, any person in either public or private capacity practicing or offering to practice engineering or land surveying, shall hereafter be required to submit evidence that he is qualified so to practice and shall be registered as hereinafter provided; and from and after the first day of January, 1958, it shall be unlawful for any person to practice or to offer to practice in this state, engineering or land surveying, as defined in this act, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a professional engineer or a land surveyor, unless such person has been duly registered under the provisions of this act.

66-2325. Short title. This act shall be known and may be cited as the Montana Professional Engineers' Registration Act.

66-2326. Definitions. The term "engineer" as used in this act shall mean a professional engineer as hereinafter defined.

The term "professional engineer" within the meaning and intent of this act shall mean a person who, by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as hereinafter defined, as attested by his legal registration as a professional engineer.

The term "engineer-in-training" as used in this act shall mean a candidate for registration as a professional engineer who is a graduate in an engineering curriculum of four years or more from a school or college approved as of satisfactory standing by the engineers' council for professional development or its successor as an agency evaluating professional engineering curricula, **or equivalent curricula as approved by the board**, or who has had four years of more of experience in engineering work of a character satisfactory to the board; and who, in addition, has successfully passed the examination in the fundamental engineering subjects as provided in section 66-2338, and who shall have received from the board, as hereinafter defined, a certificate stating that he has successfully passed this portion of the professional examinations.

The term "practice of engineering" within the meaning and intent of this act shall mean any professional service or creative work requiring engineering education, training, and experience and the application of such special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design, and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, **and including such architectural work as is incidental to the practice of engineering.**

The practice of engineering shall not include the work ordinarily performed by persons who operate or maintain machinery or equipment, or communication lines or signal circuits, or electric power lines or pipelines.

The term "land surveyor" as used in this act shall mean a person who engages in the practice of land surveying as hereinafter defined.

The practice of land surveying within the meaning and intent of this act includes surveying of areas for their correct determination and description and for conveyancing, or for the establishment or re-establishment of land boundaries and the plotting of lands and subdivisions thereof.

The term "board" as used in this act shall mean the State Board of Registration for Professional Engineers and Land Surveyors provided for by this act.

66-2327. Board — members — term. A State Board of Registration for Professional Engineers and Land Surveyors, is hereby created whose duty it shall be to administer the provisions of this act. The board shall consist of five professional engineers, **and two registered and practicing land surveyors, all of whom** shall be appointed by the governor. No more than two members shall be from the same branch of the profession of engineering. All **professional engineer** members shall have the qualifications required by section 66-2328.

The members of the first board shall be appointed within ninety days after the passage of this act. Two members of the first board shall be members of the previous civil engineer board, and shall serve for one and two year terms respectively. The other appointments to the first board shall be for the terms of three, four, and five years respectively, or until their successors are duly appointed and qualified. Every member of the board shall receive a certificate of his appointment from the governor and before beginning his term of office shall file with the secretary of state his written oath or affirmation for the faithful discharge of his official duty. Each member of the board first appointed hereunder shall receive a certificate of registration under this act from said board. On the expiration of the term of any member, the governor shall appoint for a term of five years a registered professional engineer, having the qualifications required by section 66-2328, **or a licensed and practicing land surveyor**, to take the place of the member whose term on said board is about to expire. **The member so appointed by the governor shall have qualifications similar to the member whose term on said board is about to expire.** Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been duly appointed and shall have qualified. A member of the board may be appointed to succeed himself. **No person shall be appointed to the board who has served two consecutive terms thereon.** The governor shall **within ninety days after the passage of this act appoint two licensed and practicing land surveyors to said board for a term of three and five years respectively.**

66-2328. Board—qualifications. Each member of the board shall be a citizen of the United States and a resident of this state, and shall have been engaged in the practice of engineering for at least twelve years and shall have been in responsible charge of important engineering work for at least five years. Responsible charge of engineering teaching may be construed as responsible charge of important engineering work.

66-2329. Board—compensation and expenses. Each member of the board shall receive per diem when actually attending

to the work of the board or any of its committees and for the time spent in necessary travel. Such per diem shall be fixed by the board in its sound discretion, but shall not exceed twenty-five dollars (\$25.00) per day. In addition thereto, each member shall be reimbursed for all actual traveling, incidental, and clerical expenses necessarily incurred in carrying out the provisions of this act.

66-2330. Board—removal of members—vacancies. The Governor may remove any member of the board for misconduct, incompetency, neglect of duty, or for any other sufficient cause. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor.

66-2331. Board—organization—meetings. The board shall hold a meeting within thirty days after its members are first appointed, and thereafter shall hold at least two regular meetings each year. Special meetings shall be held at such time as the rules and regulations of the board may provide. Notice of all meetings shall be given in such manner as the rules and regulations may provide. The board shall elect annually the following officers: A chairman, a vice-chairman, and a secretary. A quorum of the board shall consist of not less than three members.

66-2332. Board—powers. The board shall have the power to adopt and amend all rules and regulations and rules of procedure, not inconsistent with the constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt and have an official seal.

In carrying into effect the provisions of this act, the board, under the hand of its chairman and the seal of the board may subpoena witnesses and compel their attendance, and also may require the production of books, papers, documents, etc., in a case involving the revocation of registration or practicing or offering to practice without registration. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued or shall refuse to testify or produce any books, papers, or documents, the board may present its petition to the district court, setting forth the facts, and thereupon such court shall, in a proper case, issue its subpoena to such person, requiring his attendance before such authority and there to testify or to produce such books, papers, and documents, as may be deemed necessary and pertinent by the board. Any person failing or refusing to obey the subpoena or order of the said court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of said court. **The practice of engineering or land surveying as defined herein, without a license is hereby declared to be a public nuisance.**

66-2333. Receipts and disbursements—secretary—assistants.

The secretary of the board shall receive and account for all moneys derived under the provisions of this act, and shall pay the same monthly to the state treasurer, who shall keep such moneys in a separate fund to be known as the "Professional Engineers' Fund." Such fund shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only by warrants drawn by the state auditor, upon claims filed and approved as required by law. All moneys in the "Professional Engineers' Fund" are hereby specifically appropriated for the use of the board. The secretary of the board shall give a surety bond to the state in such sum as the board may determine. The premium on said bond shall be regarded as a proper and necessary expense of the board, and shall be paid out of the "Professional Engineers' Fund." The secretary of the board shall receive such salary as the board shall determine in addition to the compensation and expenses provided for in section 7. The board may appoint an assistant secretary or executive secretary or may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures of this fund for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties under this act, including the expenses of the board's delegates to annual conventions of, and membership dues to, the National Council of State Boards of Engineering Examiners. Under no circumstances shall the total amount of warrants issued by the state auditor in payment of the expenses and compensation provided for in this act exceed the amount of the examination and registration fees collected as herein provided.

66-2334. Records and reports—register. The board shall keep a record of its proceedings and a register of all applicants for registration, which register shall show (a) the name, age, and residence of each applicant; (b) the date of the application; (c) the place of business of such applicant; (d) his educational and other qualifications; (e) the branch or branches of engineering in which the applicant qualified; (f) whether or not an examination was required; (g) whether the applicant was rejected; (h) whether a certificate of registration was granted; (i) the date of the action of the board; and (j) such other information as may be deemed necessary by the board.

The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

Annually, as of June 30, the board shall submit to the Governor a report of its transactions of the preceding year, and shall also transmit to him a complete statement of the receipts and

expenditures of the board, attested by affidavits of its chairman and its secretary.

66-2335. Roster. A roster showing the names and places of business of all registered professional engineers and all registered land surveyors shall be published by the secretary of the board during the month of April of each year. Copies of this roster shall be mailed to each person so registered, placed on file with the secretary of state, the clerk of each incorporated city and town and in the office of each county clerk and recorder within the state, and furnished to the public upon request.

66-2336. Requirements for registration. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer, or land surveyor, or for certification as an engineer-in-training, respectively:

(1) As a professional engineer:

a.—Graduation in an engineering curriculum of four years or more from a school or college approved as of satisfactory standing by the engineers' council for professional development, or its successor as an agency evaluating professional engineering curricula **or equivalent curricula as approved by the board;** and a specific record of an additional four years or more of experience in engineering work of a character satisfactory to the board, and indicating that the applicant is competent to practice engineering (in counting years of experience, the board at its discretion may give credit, not in excess of one year, for satisfactory graduate study in engineering), and by successfully passing an oral or written examination, or both, as the board may determine; or

b.—A specific record of eight years or more of experience in engineering work of a character satisfactory to the board, and successfully passing a written, or written and oral, examination designated to show that the applicant is competent to practice engineering; or

c.—A specific record of twelve years or more of lawful practice in engineering work of a character satisfactory to the board and indicating that the applicant is competent to practice engineering and has had responsible charge of important professional work for at least five years, and provided applicant is not less than thirty-five years of age.

(2) As an engineer-in-training:

a.—Graduation in an engineering curriculum of four scholastic years or more from a school or college approved as of satisfactory standing by the engineers' council for professional development, or its successor as an agency evaluating professional engineering curricula, **or equivalent curricula approved by the**

board, and successfully passing a written examination in the basic engineering subjects; or

b.—A specific record of four years or more of experience in engineering work of a character satisfactory to the board, and successfully passing a written examination in the basic engineering subjects.

(3) As a land surveyor:

a.—Graduation from a school or college approved as of satisfactory standing by the engineers' council for professional development, or its successor as an agency evaluating professional engineering curricula, including the completion of an approved course in surveying **or equivalent surveying courses approved by the board**, and an additional two years or more of experience in land surveying work of a character satisfactory to the board indicating that the applicant is competent to practice land surveying, **and successfully passing a written, or written and oral, examination in surveying prescribed by the board; or**

b.—A specific record of six years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying, and successfully passing a written, or written and oral, examination in surveying prescribed by the board; or

c.—**Registration by comity or endorsement**—a person holding a certificate of registration to engage in the practice of land surveying issued on comparable qualifications from a state, territory, or possession of the United States, will be given comity consideration. However, he may be asked to take such examinations as the board deems necessary to determine his qualifications, but in any event he shall be required to pass a written examination of not less than four hours' duration, which shall include questions on laws, procedures, and practices pertaining to practice in this state.

(4) **The board may require any applicant to take a written or oral examination or both.**

No person shall be eligible for registration as a professional engineer, or land surveyor, or certification as an engineer-in-training, who is not of good character and reputation.

In considering the qualifications of applicants, engineering teaching may be construed as engineering experience.

The satisfactory completion of each year of an approved curriculum in engineering in a school or college approved as of satisfactory standing by the engineers' council for professional development, or its successor as an agency evaluating professional engineering curricula **or equivalent curricula approved by the board**, without graduation, shall be considered as equivalent

to a year of experience in section 66-2336 (1) b and (2) b. Graduation in a curriculum other than engineering from a college or university of recognized standing may be considered as equivalent to two years of experience in section 66-2336 (1) and (2) b; provided, however, that no applicant shall receive credit for more than four years of experience because of undergraduate educational qualifications.

The mere execution, as a contractor, or work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent shall not in itself be deemed to be qualifying engineering experience.

Any person having the necessary qualifications prescribed in this act to entitle him to registration shall be eligible for such registration although he may not be practicing his profession at the time of making his application.

66-2337. Application for registration — fees. Applications for registration shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and detailed summary of his technical work, and shall contain not less than five references, of whom three or more shall be engineers **or land surveyors** having personal knowledge of his engineering **or land surveying** experience.

The registration fee for professional engineers shall be twenty dollars (\$20.00), ten dollars (\$10.00) of which shall accompany the application, the remaining ten dollars (\$10.00) to be paid upon issuance of certificate. When a certificate of qualification issued by the national bureau of engineering registration is accepted as evidence of qualification, the total fee for registration as professional engineer shall be ten dollars (\$10.00).

The fee for engineer-in-training shall be ten dollars (\$10.00), which shall accompany the application and shall include the cost of examination and issuance of certificate. When certification as an engineer-in-training by another state, or any territory or possession of the United States or any country, is accepted as evidence of qualification, the fee for engineer-in-training in Montana shall be one dollar (\$1.00). When registration as a professional engineer is completed by an engineer-in-training, an additional fee of ten dollars (\$10.00) shall be paid before issuance of certificate as a professional engineer.

The registration fee for land surveyors shall be ten dollars (\$10.00), which shall accompany the application. The fee for registration as both a professional engineer and land surveyor shall be thirty dollars (\$30.00), ten dollars (\$10.00) of which shall accompany the application, the remaining twenty dollars (\$20.00) to be paid upon issuance of certificate.

Should the board deny the issuance of a certificate of registration to any applicant the initial fee deposited shall be retained as an application fee.

66-2338. Examinations. The board may require any applicant to take a written or oral examination which shall be held at the time and place the board shall determine. The board may require a registrant to take a written or oral examination, or both, in any proceeding to revoke, reprimand, suspend, or refuse to renew. When examinations are required on fundamental engineering subjects (such as are ordinarily given in college curricula), the applicant shall be permitted to take this part of the professional examination prior to his completion of the requisite years of experience in engineering work, and satisfactory passage of this portion of the professional examination by the applicant shall constitute a credit for a period of ten years. The board shall issue to each applicant upon successfully passing the examination in fundamental engineering subjects a certificate stating that he has passed the examination and that his name has been recorded as an engineer-in-training.

The scope of the examinations and the methods of procedure shall be prescribed by the board but, with special reference to the applicant's ability to design and supervise engineering works, so as to insure the safety of life, health, and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration separately in engineering and in land surveying. A candidate failing on examination may apply for re-examination at the expiration of six months and will be re-examined without payment of additional fee. Subsequent examinations will be granted upon payment of a fee to be determined by the board.

66-2339. Certificates of registration—seal. The board shall issue a certificate of registration, upon payment of registration fee as provided for in this act, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this act. In the case of a registered engineer, the certificate shall authorize the "practice of engineering." In the case of an engineer-in-training, the certificate shall state that the applicant has successfully passed the examination in fundamental engineering subjects required by the board and has been enrolled as an "engineer-in-training." In the case of a registered land surveyor, the certificate shall authorize the "practice of land surveying." Certificates of registration and certificates as engineer-in-training shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairman, and the secretary of the board under seal of the board.

The issuance of a certificate of registration by this board shall be prima facie evidence that the person named therein is subject to the responsibilities and entitled to all the rights

and privileges of a registered professional engineer or of a registered land surveyor, while the said certificate remains unrevoked or unexpired.

Each registrant hereunder shall upon registration obtain a seal of the design authorized by the board, bearing the registrant's name and the legend, "Registered Professional Engineer," and/or "Registered Land Surveyor." Plans, specifications, plats, and reports prepared by a registrant shall be stamped with the said seal when filed with public authorities, during the life of the registrant's certificate, but it shall be unlawful for any one to stamp or seal any documents with said seal after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate shall have been renewed or reissued.

66-2340. Expiration and renewals—fee. Certificates of registration shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed; provided, however, that certificates issued after the effective date of this act and prior to January 1, 1958, shall expire December 31, 1958. It shall be the duty of the secretary of the board to notify every person registered under this act, of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of the examination of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee of ten dollars (\$10.00) for either a failure on the part of any registrant to renew his certificate annually in the month of December as required above shall not deprive such person of the right of renewal, **provided, however, any registrant who fails to pay said renewal fee for two (2) consecutive years shall be considered by the board to be a new applicant and shall be required to submit a new application.**

66-2341. Persons presently registered as civil engineer and/or land surveyor. No person who heretofore has been duly registered as a civil engineer and/or land surveyor under the laws of Montana and whose registration has not been revoked shall be required to register again under this act, and his former registration shall be fully recognized under the provisions of this act. All certificates including those for engineer-in-training heretofore issued and not revoked shall have the same force and effect as if they had been issued under the provisions of this act, and shall be subjected to the same rules, terms and conditions as are the certificates provided for in this act.

66-2342. Present professional engineers—persons in military service. At any time within one year after this act becomes effective, upon application therefor and the payment of the registration fee of twenty dollars (\$20.00), the board shall is-

sue a certificate of registration, without oral or written examination to any professional engineer, who shall submit evidence under oath satisfactory to the board that he is of good character, has been a resident of the State of Montana for at least one year immediately preceding the date of his application; and was practicing engineering in a branch of engineering other than civil engineering and land surveying, as defined in Section 66-2303 of the Revised Codes of Montana, 1947, at the time this act became effective, and was performing engineering work of a character satisfactory to the board.

The board at its discretion may require applicants under this section to appear for personal interview.

After this act shall have been in effect one year, the board shall issue certificates of registration only as provided for in section 14 or section 22 hereof, except for individuals who are in the military service of the United States at the time this act becomes effective who were residents of this state at the time of entering such service, and who were practicing engineering immediately preceding or during said service, and have performed work of a character satisfactory to the board, for whom the provisions of this section shall apply at any time within one at any time within one year after honorable separation from such service.

For civil engineers or land surveyors the preceding applies, except that such individuals shall have been in the military service of the United States as of July 1, 1948, as was provided in Section 66-2318, Revised Codes of Montana, 1947.

66-2343. Engineering plans and specifications for public works. All engineering plans and specifications for public works of the State of Montana, or any agency thereof, or of any county, city, or school district of the state, shall bear the seal and signature of the engineer responsible therefor.

66-2344. Registration of persons registered by other states or authorities. The board may, upon application therefor, and the payment of a fee of ten dollars (\$10.00), issue a certificate of registration as a professional engineer to any person who holds a certificate of qualification or registration issued to him by proper authority of the **National Bureau of Engineering Registration**, or of any state or territory or possession of the United States, or of any country, provided that the applicant's qualifications meet the requirements of this act and the rules established by the board.

66-2345. Revocation of registration — hearings — reissuance of certificate — appeals. The board shall have the power to **revoke, reprimand, suspend, or refuse to renew** the certificate of any registrant who is found guilty of:

(a) The practice of any fraud or deceit in obtaining a certificate of registration;

(b) Any gross negligence, incompetency or misconduct in the practice of engineering or land surveying as a registered professional engineer or land surveyor.

(c) **Any felony.**

(d) **The failure of any land surveyor to comply with the Corner Recordation Act.**

Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any registrant. Such charges shall be **made by affidavit**, and shall be **subscribed and sworn to by the person making them**, and shall be filed with the secretary of the board.

All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they shall have been preferred.

The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such registrant, at least thirty days before the date fixed for the hearing. At any hearing, the accused registrant shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

If, after such hearing, **four** or more members of the board vote in favor of **sustaining the charges**, the board shall **reprimand, suspend, refuse to renew, or** revoke the certificate of registration of such registered professional engineer or land surveyor.

The board, for reasons it may deem sufficient, may reissue a certificate of registration to any person whose certificate has been revoked, providing **four** or more members of the board vote in favor of such reissuance. A new certificate of registration, to replace any certificate revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the board, and a charge of three dollars (\$3.00) shall be made for such issuance.

Any person who shall feel aggrieved by any action of the board in **denying, reprimanding, suspending, refusing to renew** or revoking his certificate of registration may appeal therefrom to the district court of the county in which such denial, **suspension, reprimand, refusal to renew**, or revocation was made, and after full hearing, said court shall make such decree sustaining or reversing the action of the board as to it may seem just and proper.

66-2346. Violations — penalties — enforcement of act. Any person who shall practice, or offer to practice, engineering or

land surveying in this state without being registered in accordance with the provisions of this act, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an unexpired or revoked certificate of registration, or any person who shall violate any of the provisions of this act, shall be guilty of misdemeanor, and shall, upon conviction, be sentenced to pay a fine of not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00), or suffer imprisonment for a period not exceeding three months, or both.

It shall be the duty of all duly constituted officers of the law of this state, or any political subdivision thereof, to enforce the provisions of this act and to prosecute any persons violating same. The attorney general of the state or his assistant shall act as legal adviser of the board and render such legal assistance as may be necessary in carrying out the provisions of this act.

66-2347. Practices to which act inapplicable. This act shall not be construed to prevent or to affect:

(a) The practice of any other legally recognized professions or trades.

(b) The mere execution of work by a contractor as distinguished from the planning or design thereof, or the supervision of the construction of such work as a foreman or superintendent; or

(c) The practice of a person not a resident of and having no established place of business in this state, practicing or offering to practice herein the profession of engineering, when such practice does not exceed in the aggregate more than thirty days in any calendar year; provided such person is legally qualified by registration to practice the said profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this act; or

(d) The practice of a person not a resident of and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice engineering or land surveying herein for more than thirty days in any calendar year, if he shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this act; provided that such a person is legally qualified by registration to practice engineering or land surveying in his own state or country in which the requirements

and qualifications for obtaining a certificate of registration are not lower than those specified in this act. Such practice shall continue only for such time as the board requires for the consideration of the application for registration; or

(e) The performance of professional engineering functions or work by a person who is an employee or acts under the supervision and direction of a professional engineer, provided such person is not in responsible charge of such engineering work; or

(f) The practice of professional engineering by licensed architects where such practice is purely incidental to their practice of architecture, or

(g) The practice of officers and employees of the government of the United States while engaged within this state in the practice of engineering or land surveying, for said government, or

(h) The practice of professional engineering or land surveying in this state by a firm, copartnership, corporation or joint stock association, or by its members, officers or employees on its behalf, provided each person in responsible charge of activities of the firm, copartnership, corporation or joint stock association which constitutes such practice is a professional engineer or land surveyor respectively, holding a certificate of registration under this act.

Montana State Board of Registration for Professional Engineers and Land Surveyors

BY-LAWS

Effective July 15, 1957

Adopted by the Montana Board of Registration for Professional Engineers and Land Surveyors on July 13, 1957.

1. **Name.** This Board, constituted by the provisions of Chapter 150, 1957 Session Laws of Montana, shall be known as the Montana State Board of Registration for Professional Engineers and Land Surveyors and shall, hereafter be referred to as the Board.

2. **Organization.** The Board shall elect, from its members a Chairman, Vice-Chairman, and the Secretary at the regular July meeting of each year.

The Chairman shall be the executive officer of the Board. When present, he shall preside at all meetings. He shall appoint such committees as the Board may authorize from time to time. He shall sign all certificates and other official documents. He shall perform all other duties usually pertaining to the office of Chairman and permitted by Law.

The Vice-Chairman, in the absence of the Chairman, shall perform the duties delegated to the Chairman in the preceding paragraph, except that the Chairman shall sign all official papers of the Board.

In the absence of the Chairman and the Vice-Chairman from a regular or special meeting of the Board, the remaining members shall elect a Presiding Officer, who shall serve until the conclusion of the meeting or until the arrival of the Chairman.

The Secretary shall be responsible for the supervision of all correspondence, applications and financial records of the Board.

The Board may employ an Executive or Assistant Secretary or both who, working under the direction of the Secretary, shall be delegated such duties as are necessary for the proper and efficient conduct of the Board business.

The Secretary, Executive Secretary or Assistant Secretary shall be paid such salary as the Board may direct. Necessary expenses incurred by the Executive Secretary or Assistant Secretary and other Board members in traveling within or outside

the State in performance of official duties, shall be paid on vouchers (claims) handled as prescribed herein and by law. The Board shall furnish the Secretary the necessary equipment, supplies and stenographic assistance, paying for same directly on vouchers (claims) handled as prescribed herein and by law.

3. **Vacancies.** If, for any reason, a vacancy shall occur in the Board, the Chairman shall prepare a notice to the Governor asking for the appointment of a new member to fill the unexpired term. A copy of the notice shall be sent to each Board member. If the vacancy shall occur in the office of the Chairman, the Vice-Chairman shall prepare the notice. In such case, the Board shall elect, from its own membership, at the first regular or special meeting following the appointment of the new member, a new Chairman to serve for the balance of the unexpired term.

4. **Meetings.** An annual meeting shall be held during July each year, the exact time and place to be determined by the Chairman and set forth in a written notice, copy of which shall be mailed to each member at his last address of record at least ten days in advance of the date of the meeting.

A special meeting may be called at any time by order of the Chairman on the written request of any three members of the Board. Notice as prescribed above or telegraphic notice not less than seventy-two (72) hours in advance of the date and time of the meeting, shall be given each member, said notice setting forth the exact time and place of the meeting as determined by the person issuing the call.

Notice less than seventy-two hours in advance of a called special meeting may be given by telephone or other means provided such member, or members of the Board, as are absent from the meeting sign a statement accepting the call in lieu of notice as set out in the preceding paragraph. Attendance at the meeting will be evidence of acceptance of the call by those members present.

Four members of the Board shall constitute a quorum at any meeting.

5. **Financial.** The fiscal year of the Board shall begin July 1 and close June 30 of each year.

The Board shall maintain complete records of financial transactions as prescribed by the State Auditor and by law.

Payment of all salaries and other operating expenses of the Board shall be made by itemized vouchers (claims) on the Professional Engineers' Fund. Such vouchers (claims) shall be approved by the Chairman and attested by the Secretary or Assistant Secretary.

6. **Seal.** The seal of the Board shall be an embossed circular seal one and one-half inches in diameter, consisting of two concentric circles. The inner circle shall contain the Great Seal of the State of Montana and the seal shall contain the wording, "Montana Board of Registration—Professional Engineers and Land Surveyors."

7. **Order of Business.** The order of business at all regular and special meetings of the Board shall be as follows:

1. Roll call.
2. Reading of minutes.
3. Report of committees.
4. Report of Secretary and reading of communications.
5. Unfinished business.
6. New business.
7. Reading and consideration of applications.
8. Adjournment.

8. **Procedure.** "Roberts' Rules of Order" shall govern the proceedings of the Board except as otherwise provided herein or by statute.

9. **Registration.** Applications received by the Board shall be examined for conformity with the Rules and Regulations governing applications as established by the Board. Applications accompanied by proper fees and in the form prescribed shall be entered in the records of the Board. Applications not accompanied by proper fees or not conforming entirely to the Rules and Regulations shall be returned to the applicant, with instructions as to the correction thereof, or held in abeyance until in proper form as prescribed by the Board.

When applications accompanied by proper fees are accepted and entered in the books of the Board, the references cited in the respective applications shall be contacted in the manner prescribed by the Board. If replies from the references cited are not received within a reasonable time, the applicant shall be notified to that effect.

When all necessary information has been brought together with regard to a given applications, each Board member shall be provided with a summary of the application. The application with all incidental papers shall be brought to the attention of the Board at the first subsequent meeting.

10. **Rules and Regulations.** The Board shall promulgate and adopt rules and regulations governing registration examinations, renewals, etc., of applicants.

11. **National Council.** The Board may affiliate with the National Council of State Boards of Engineering Examiners. Any delegate or delegates to the Council appointed by the Board shall attend the annual meeting of the Council at the expense of the Board.

12. **Amendments.** Amendments to these By-Laws and to the Rules and Regulations may be proposed by any member of the Board and shall be filed with the Secretary or Assistant Secretary. Copy of the proposed amendments shall be furnished each member at the time of notice of the next regular or special meeting. The amendments so proposed shall be voted upon at the meeting immediately thereafter. Four (4) votes shall be required for the adoption of an amendment.

Montana State Board of Registration for Professional Engineers and Land Surveyors

RULES AND REGULATIONS

Effective July 15, 1957

Adopted by the Montana Board of Registration for Professional Engineers and Land Surveyors on July 13, 1957.

Rule 1. **Form of Application**

All applications for registration shall be made on printed form provided by the Board and no applications made otherwise will be accepted. As a part of the required information, a Supplementary Experience Record shall be submitted on the sheet provided by the Board to which additional sheets may be attached, which shall be of plain white paper, 8½x11 inches in size. Such additional sheets shall be typed on one side only. Applications must be clearly typewritten in black, suitable for photostatic copy, and all questions must be answered. An application not properly made out, or not containing all of the information provided for, or not accompanied by the required fee will be returned with a statement of the reason for return. Each copy of the application shall be accompanied by an unmounted, recognizable, recent photograph of the applicant, with date taken or photoengraving of same (size 2 by 2½ inches overall with face not less than ¾ inch wide).

Applications shall be subscribed and sworn to before a Notary Public or other person qualified to administer oaths.

The conditions set out in the Application Form, including the Code of Ethics, shall be construed to be a part of the Rules and Regulations.

Rule 2. **Fees**

Fees shall be transmitted by money order or certified check payable to Montana State Board of Registration for Professional Engineers and Land Surveyors. The Board assumes no responsibility for loss in transit of such remittances. Applications not accompanied by the proper fee will be returned to the applicant.

The registration fee for Professional Engineers shall be twenty dollars (\$20.00), ten dollars (\$10.00) of which shall accompany application, the remaining ten dollars (\$10.00) to be paid prior to issuance of certificate. When a Certificate of Qualifications

issued by the National Bureau of Engineering Registration is accepted as evidence of qualification, the total fee for registration as Professional Engineer shall be ten dollars (\$10.00).

The fee for Engineer-in-Training shall be ten dollars (\$10.00), which shall accompany the applications and shall include the cost of examination and issuance of certificate. When certification as an Engineer-in-Training by another state, or any territory or possession of the United States, or of any country, is accepted as evidence of qualification, the fee for Engineer-in-Training in Montana shall be one dollar (\$1.00).

When registration as a Professional Engineer is completed by an Engineer-in-Training an additional fee of ten dollars (\$10.00) shall be paid prior to issuance of certificate as a Professional Engineer.

The registration fee for Land Surveyors shall be ten dollars (\$10.00) which shall accompany application.

The fee for registration of one individual as a Professional Engineer and Land Surveyor shall be thirty dollars (\$30.00), ten dollars (\$10.00) of which shall accompany the application, the remaining twenty dollars (\$20.00) to be paid prior to issuance of certificate.

In every case should the Board deny the issuance of a certificate to any applicant, the initial fee deposited shall be retained by the Board as an application fee.

The annual renewal fee for registration as a Professional Engineer, Land Surveyor, or Professional Engineer and Land Surveyor shall be ten dollars (\$10.00).

Rule 3. **References**

Upon receipt of an application, a copy of the Board's uniform questionnaire and form letter shall be transmitted to five (5) or more references. Applicants will note that three or more of the references shall be Professional engineers. No member of the Board will be accepted as a reference.

Any Board member may make an independent investigation of the applicant's qualifications and report his findings to the Board.

No statement of a reference will be accepted by the Board unless such statement answers fully the questions submitted by the Board, and bears the signature of the references. Until such time as the required replies from the references are received, the Board will not take action on the application, provided that if the required complete replies are not received by the Board within a period of 3 months after the date of receipt of the application in the office of the Board the application may be rejected.

Rule 4. Definitions

See 66-2326 of the Law, page 4 of this pamphlet.

Experience or practice in engineering work or land surveying "of a character satisfactory to the Board" shall mean experience which the Board deems to be Professional Work, or its equivalent, as defined herein, of which at least one (1) year must have been spent in actual Responsible Charge of Professional Work.

Each year of experience in Sub-Professional Work, as defined herein may be credited as one-half ($\frac{1}{2}$) year toward the requirement of experience or practice of a character satisfactory to the Board. Only experience of the applicant which is classified as Sub-Professional or Professional Work by the Board will be considered.

Sub-Professional Work shall be construed to cover the time spent as Rodman, Chainman, Instrumentman, Inspector, Recorder, Draftsman, Computer, Tester, Superintendent of Construction, or Clerk of the Works, Junior Engineer, or similar work; that is, positions in which the responsibility is slight and the individual performance of a task, set and supervised by a superior, is all that is required. It shall also include experience attained before the applicant is twenty-one (21) years of age, except as modified by the statement in regard to education in the defined Professional Work.

Professional Work shall include the time after the applicant is twenty-one (21) years of age, during which he has been occupied in engineering or land surveying work of a higher grade and responsibility than the above defined as Sub-Professional Work. A graduate of an approved engineering curriculum applying for registration under 66-2336, (1), (a); or in the case of an applicant for registration as a Land Surveyor, a graduate of an approved school applying for registration under 66-2336, (3), (a), will not list as experience the time spent in undergraduate training. Where the applicant does not apply under 66-2336, (1), (a), or 66-2336, (3), (a), education may be considered as Professional Work. Each academic year completed in an engineering school approved by the Board shall be rated as one (1) year of Professional Work. Graduation from a course other than engineering from a college or university of recognized standing may be considered as two (2) years of Professional Work. However, not more than four (4) years of Professional Work shall be credited because of undergraduate educational qualifications. The Board may, at its discretion, give not more than one (1) year of credit for Professional Work for satisfactory graduate study in engineering. Time spent in teaching of engineering subsequent to graduation shall be considered Professional Work. *The mere execution, as a contractor of work designed by an engineer, or mere super-*

vision of construction of such work as foreman or superintendent shall not be deemed to be Professional Work.

Responsible Charge of Professional Work means:

a. In the field, the applicant must have had the direction of work, the successful accomplishment of which rested upon him, where he had to decide questions of methods of execution and suitability of materials, without relying upon advice or instructions from his superiors, and of supplying deficiencies in plans or correcting errors in design without first referring them to higher authority for approval, except in cases where such approval is a mere matter of form.

b. In the office, the applicant must have had to undertake investigations, or carry out important assignments, demanding resourcefulness and originality, or to make plans, write specifications and direct drafting and computation for designs or engineering, with only rough sketches, general information and field measurements for reference and guidance.

c. In teaching, the applicant, must have taught in an engineering school of recognized standing, and must have had, at least, a grade of assistant professor, or its equivalent.

The Board, in passing on each of these requirements as defined, will carefully weigh the evidence of experience submitted by the applicant and the replies received from his references.

Each applicant for registration under 66-2336 (1)c and 66-2336 (3)c unless otherwise exempt by the Board, shall be required to submit plans, drawings, specifications, field notes, maps, design computations, and such reports of engineering or land surveying work accomplished by him, as may be required by the Board, and will be required to appear before the Board for a personal interview. The applicant must be prepared to discuss the data submitted for the purpose of demonstrating to the Board that he has acquired education, knowledge, and experience approximating that required under 66-2336 (1)a or 66-2336 (1)b and 66-2336 (3)a or 66-2336 (3)b. These documents shall be submitted by the applicant in time for review by the Board prior to the meeting at which the interview occurs.

Rule 5. Schools Approved by the Board

Engineering schools, or colleges approved by the Board are those which require for entrance, graduation from an accredited high school or preparatory school (or equivalent by the passing of advance standing examination), which offer a minimum of a four year course leading to a degree of bachelor of science in recognized branches of engineering, or its equivalent, and which are either approved by the Engineers' Council for Professional Development or **equivalent curricula as approved by the Board.**

Rule 6. Examinations

After July 15, 1957, registration as a Professional Engineer under 66-2336 (1)a and (1)b and as Land Surveyor under 66-2336 (3)b will be by examination as designated below.

Examinations will be held at such time and place as the Board may designate. Applicants of which examinations will be required will be notified of the time and place at least 30 days in advance. The examination is divided into two parts as follows:

Part I, which is written, is the Engineer-in-Training examinations. This examination will cover fundamentals of engineering, and may be with or without books. Time allowed is eight hours. The Engineer-in-Training is credited with this part of the registration examination, and need not repeat it when applying for registration.

The Engineer-in-Training examination for non-civil engineers is waived for graduates of 1957 or earlier.

Part II, which is written, will cover the practice of professional engineering or the practice of land surveying or both as the case may be. Reference material may be used. The time allowed is eight hours.

The examination for registration as Professional Engineer will consist of Part I and Part II. The examination for Land Surveyor will consist of Part II.

A passing grade of 70 per cent in each part of the examination will be required.

A candidate failing to pass any part of the examinations may take that part again at a subsequent examination period which occurs in not less than six months after the date of the examination on which the candidate failed.

Rule 7. Disposal of Applications

When the Board, after due consideration of an application and of information pertaining thereto, is satisfied that the applicant is eligible for registration under the particular classification under which the application is made, the applicant will be voted registration. If the finding of the Board is that the applicant is not eligible for registration under the classification under which the application is made, the Board may vote the applicant registration in such other classification as it finds that he is eligible. The applicant will be notified of the action by the Board.

If the Board is unable to determine from the information provided by the applicant whether the applicant is eligible for registration, the application shall be deferred and the applicant requested to furnish such additional information as may be

necessary. If after one year from the date of the request for such information, no reply has been received, the application will be rejected and a new application required.

If after one year from date of notification of approval, an applicant has not paid the required registration fee, he shall be notified that unless such payment is made within thirty days, a new application for registration must be made under a section of the law applicable on the date the new application is filed, and accompanied by a new application fee.

Rule 8. Rejected Applications

If an application is rejected, the Board will advise the applicant in accordance with provisions of the Act.

Rule 9. Registration Number

At the time an applicant is voted registration by the Board, he will be assigned a serial number. These numbers will be issued consecutively in the order in which the applications are approved by the Board. The applicant will be advised of his serial number in the notice sent him.

Rule 10. Seals

Upon approval of his application by the Board, the Registrant will be advised that he may secure an official seal, and informed of the requirements of the law with regard to the use of such seal.

Seals for Professional Engineers and Land Surveyors will be furnished by the Board at cost upon request. Seals of two different sizes are authorized; pocket seal, the size commercially designated as a 1½ inch seal; or a desk seal, commercially designated as a 2 inch seal. The seal will bear the Registrant's name, serial number, and the legend "Registered Professional Engineer," "Registered Land Surveyor," or "Registered Professional Engineer and Land Surveyor."

For stamping plans, specifications, and reports, registrants are authorized to have a rubber stamp copy made of their official seal; however, the title page of all sets of plans and all documents filed with public authorities must bear the imprint of the official seal.

Rule 11. Certificate of Registration

A certificate of registration will be issued by the Board after approval of an application, payment of registration fee (if required), and verification of the applicant's usual written signature. The certificate shall be signed by the Chairman and the Secretary and shall bear the serial number of the registrant.

Applicants approved for registration as Professional Engineers and Land Surveyors shall receive one certificate of registration authorizing the practice of Professional Engineering and Land Surveying.

The application of any applicant who fails to complete his registration as provided herein above within a period of six months after notice is mailed to him by the Board that he has been voted registration, shall be rejected upon action of the Board.

Rule 12. Registration by Endorsement

The Board may, without written examination, upon application therefore and payment of proper fee, issue a certificate of registration as a Professional Engineer to any person who submits evidence that he holds a Certificate of Qualification or Registration issued to him by proper authority of the National Bureau of Engineering Registration operated by the National Council of State Board of Engineering Examiners, or of any State or Territory or Possession of the United States, or of any Country provided that the applicant's qualifications meet the requirements of the Act and of the rules established by the Board. Such applicants shall, as part of their application, complete and send to the Board the standard application form.

When application for registration by endorsement is made the Montana Board shall secure from the examining board by which the certificate of registration involved was issued, complete information as to the basis for the issuance of said certificate, provided, however, that if the applicant presents evidence of a certificate issued by the National Bureau of Engineering Registration bearing thereon as an endorsement proper authorization by the authorized official of the State Board of Engineering Registration of the State in which the holder of the certificate is a resident, such inquiry may be omitted.

All non-resident applicants who are not registered in their home state or who registered under standards lower than 66-2336 of the Act shall not be eligible for registration by endorsement.

The Board will, upon application for reciprocal registration by one of its registrants, certify as to his qualifications.

Rule 13. Non-Resident Practice in Montana

A person not a resident of and having no established place of business in this State, practicing or offering to practice within the profession of Professional Engineering or Land Surveying when such practice does not exceed thirty (30) calendar days in any calendar year shall not be required to register in Montana, provided:

- (1) Such person is legally qualified by registration to prac-

tice the said profession in his own State or Country in which the requirements and qualifications under which he registered were not lower than those of this State.

(2) Such person notify the Board of his desire to practice in this State prior to making an agreement for such practice and setting forth the name of the client, description of the job, date such practice will start and cease.

(3) Such person submit evidence of legal registration in his own State, and receive the approval of the Board for such practice.

(4) Such person notify the Board at the completion of practice in this State of the exact date such practice started and ended.

Rule 14. Expirations and Renewals

Certificates of registration shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed, provided, however, that certificates issued prior to January 1, 1958, shall expire December 31, 1958. It shall be the duty of the Board to notify every person registered under the Act, of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be affected at any time during the month of December by the payment of a fee of ten dollars (\$10.00) for either a Professional Engineer or Land Surveyor or both. The failure on the part of any registrant to renew his certificate annually in the month of December as required above shall not deprive such person of the right of renewal but the fee to be paid for the renewal of a certificate after the month of December shall be increased to ten per cent for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the normal renewal fee.

Rule 15. Revocation and Reissuance of Certificates

Under the provisions of the Act, certificates of registration may be revoked by the Board for cause and after proper hearings as fully set out in 66-2345 of the Act. In defining misconduct in the practice of Professional Engineering or Land Surveying, the Board will consider among other things the Code of Ethics adopted by the Board and made a part of the application form.

When a certificate of registration is revoked, the individual shall surrender to the custody of the Secretary, his certificate, pocket registration card, and seal.

A registrant requesting a new certificate of registration to replace a certificate shall surrender to the Board if possible, the original certificate held by him and shall file with his request a sworn affidavit setting out the reason for his request so that the Board records will reflect the reason for its issuance of a new certificate.

Rule 16. Reconsiderations and Reapplications

At any time within one (1) year after date of notice of action by the Board, a request may be made for reconsideration of an application which has been rejected. After one year has expired, a new application is required and must be made under a Section of the Law applicable on the date this new application is filed.

Reconsideration does not take into account experience or educational progress subsequent to the date of application. Applications are considered as of the date when filed.

A rejected applicant may request reconsideration under the section in which he applied, at any time within one year, without additional fees, but additional or explanatory evidence bearing on the record as filed, and as of the date originally filed, must be furnished to the Board.

An applicant who is registered and applies for registration under a different section should submit a new application accompanied by the usual fee of \$10.00.

Rule 17. Non-registered, Non-residents

Applications for Registration as Professional Engineer and/or Land Surveyor from persons who are not residents of Montana and who are not registered in their home state or country will not be approved by the Board.

Rule 18. Registration by Reciprocity Without Examination

An out-of-state registrant, who has not entered his registration by examination, will generally be granted registration in Montana without examination as follows:

(1) Engineers holding a certificate of Qualification issued by the National Council of State Boards of Engineering Examiners, or by the National Bureau of Engineering Registration.

(2) Engineers registered under a provision of the law permitting registration to applicants who have graduated from a school or college in an engineering curriculum of four years or more accredited either by the Engineers' Council for Professional Development or **equivalent curricula as approved by the Board** and have a specific record of an additional four years or more

of experience in engineering work of a character satisfactory to the Board; provided the certificate of registration was issued prior to July 1, 1948, for civil engineers and July 1, 1957, for others.

(3) Engineers registered under a provision of the law permitting registration to applicants who have a specific record of twelve years or more of lawful practice in engineering work of a character satisfactory to the Board, of which at least five years has been in responsible charge of important work, provided such registration was granted under requirements not lower than those of the Montana law and the by-laws and rules of this Board.

